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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/046,677

03/24/1998

KIMIKAZU FURUKAWA

614.1889

2428

21171 7590 02/27/2008

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EXAMINER

DEANE JR, WILLIAM J

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

02/27/2008

PAPER

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1 RECORD OF ORAL HEARING

2
3 UNITED STATES PATENT AND TRADEMARK OFFICE

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6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

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10 Ex parte KIMIKAZU FURUKAWA, TOMOYOSHI TAKEBAYASHI,
11 TOSHIHIRO AZAMI, KATSUTOSHI YANO,
12 JUN KAKUTA, and YASUO SATO
13

14
15 Appeal 2007-2245
16 Application 09/046,677
17 Technology Center 2600
18

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20 Oral Hearing Held: January 15, 2008
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23
24 Before ANITA PELLMAN GROSS, ROBERT E. NAPPI, and MARC S.
25 HOFF, Administrative Patent Judges
26

27 ON BEHALF OF THE APPELLANTS:

28
29 THOMAS E. McKIERNAN, ESQ.
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34

35 The above-entitled matter came on for hearing on Tuesday, January
36 15, 2008, commencing at 9:10 a.m., at the U.S. Patent and Trademark
37 Office, 600 Dulany Street, 9th Floor, Alexandria, Virginia, before Kevin
38 Carr, Notary Public.

1 USHER BOBO-ALLEN: Calendar Number 9. Appeal Number
2 2007-2245. Mr. McKiernan.

3 JUDGE GROSS: Thank you. Good morning.

4 MR. McKIERNAN: Good morning.

5 JUDGE GROSS: You know you have 20 minutes by that clock, and
6 you can start whenever you are ready.

7 MR. McKIERNAN: Thank you very much for taking the time to
8 listen to us today.

9 What we have, our invention is essentially a data processing unit,
10 which could be a computer, and what we do is we have either in the
11 alternative either telephone control from a telephone unit with a handset or if
12 the computer received network commands, like from a computer network,
13 then it would react to them.

14 What we want to do is we want to selectively disconnect either the
15 telephone network or the telephone unit from the data processing device, and
16 then when the network is open circuited, completely block transmission of a
17 signal from the unit -- from the telephone unit to the telephone network, and
18 allow transmission of whatever the discrete multi-command signal directly
19 to the data processing device.

20 The rejection is a combination of four references. The significant one
21 is the first one, the primary one, Manning. Manning, what Manning does is
22 he takes a tone from a telephone handset and he basically tries to block it
23 from reaching the central station.

24 What he wants to do is he wants to block it long enough that he can
25 figure out what kind of a command it is, whether it is actually a telephone
26 number, whether it is a speed dial code, or whether it's say controlling a

1 thermostat on the internal house wiring, and to do that, he puts a parallel
2 load across the tip and ring line, and basically it supplies a load going
3 backwards to attenuate the signal enough that he has time to detect it, figure
4 out what it is, and then regenerate it for whatever purposes he wants it used
5 for.

6 The examiner very graciously noted that Manning doesn't use an open
7 circuit, and he said it would be obvious to use an open circuit to block the
8 network from receiving telephone signals from the handset.

9 Our position is Manning, who is used as evidence of skill in the art,
10 actually teaches away from that modification in several places. Also,
11 actually there is no way to build Manning with an open circuit and have it do
12 the same thing.

13 If you use an open circuit in parallel, you basically have two wires
14 hanging out in space and nothing happens. If you put an open circuit in line,
15 you block the circuit, which isn't what Manning wants to do.

16 What happens is Manning -- Manning has real problems with serial
17 connection. Manning notes with a serial connection, you have to have a
18 technician cut wires, in the background, and he doesn't want to have
19 someone have to cut wires.

20 He wants to do something with a parallel line where you can just plug
21 it into a socket and it just sits in parallel on the line and is able to attenuate a
22 signal and interpret it and do whatever has to be done without sending a
23 technician up to the house.

24 He also wants to run several telephones through the same device. If
25 you open circuit for purposes of blocking one of the telephones, you are
26 going to block them all, which he doesn't want to do, and he notes that

1 actually in his figure, he shows several telephones running out to this same
2 device.

3 If you modify it as the examiner suggests, you are going to kill that
4 ability.

5 The examiner makes the point that attenuation is the same as an open
6 circuit. Attenuation is basically infinite -- open circuit is basically infinite
7 attenuation.

8 Manning actually disagrees with that. He doesn't want to have
9 maximum attenuation, if you look at column five, starting at line 36 of
10 column five. He called "increasing attenuation," which presumably would
11 include increasing it to infinity, "has an undesirable effect of increasing the
12 time to detect the phones hung up."

13 Manning also wants to let the user still receive a dial tone from the
14 central unit. He calls that "transparency," so the user doesn't know there is
15 any difference in his phone, at column six, the top of column six starting at
16 basically line five.

17 He wants the dial tone. If you put an open circuit in the line, the user
18 won't receive a dial tone.

19 Manning also wants to power his device off of basically the residual
20 current that is running through a telephone line at all times. If you use an
21 open circuit, there won't be any available circuit, available current, and he
22 won't power his device.

23 I can't think of what else. If you have any questions, please stop me.

24 Our position is basically that Manning is skill in the art. He's cited by
25 the Office as evidence of skill in the art. Manning teaches against

1 -- warns against, doesn't want to do the solution, the modification proposed
2 by the examiner, which is using basically an open circuit instead of his
3 parallel device.

4 JUDGE HOFF: Counsel, doesn't your open circuit approach contain
5 the same problems as Manning teaches against?

6 MR. McKIERNAN: Not -- actually, our open circuit is from the point
7 of view of the computer itself. We are trying to isolate the computer from
8 either the telephone network or the telephone handset.

9 If you do what the examiner, I think, is doing and trying to force
10 Manning to lead on our claims, then yes, some of the things like having a
11 technician come wire some things would be a problem, but we are not doing
12 that.

13 We have a computer sitting there, and the computer is going to be
14 wired anyway. It doesn't have that problem. We're not trying to power the
15 circuit off a residual telephone line.

16 I can't think of what else, which leads to another point. Manning,
17 even modified by the examiner, can't selectively open circuit the telephone
18 network, which is his central station, from either a telephone unit or a data
19 processing device.

20 He analogizes our data processing device to Manning's control of a
21 house thermostat with a telephone, and if you think about that, what
22 Manning would have to be able to do is say okay, the central station can
23 either talk to my phone or it can talk to my thermostat, which isn't really
24 logical, and Manning wouldn't do it in the first place.

25 At least that element isn't in any of the references, I don't think.

1 It's kind of a strange analogy, actually. Manning is trying to filter
2 commands from a handset. He's trying to decide whether -- if there is
3 actually a telephone number, he sends them on their way, but he doesn't do it
4 right away. He actually blocks them and he has a tone generator to
5 regenerate them, and if they are a speed dial code, he figures out what those
6 are, and he regenerates the real telephone number that maps to the speed dial
7 code.

8 So, he does do some convolutions that aren't really applicable. They
9 really wouldn't work if you put an open circuit in there. He can't really do
10 that.

11 We think there is no basis for the modification as it stands.

12 JUDGE GROSS: Is that everything?

13 MR. McKIERNAN: Yes.

14 JUDGE GROSS: Any further questions?

15 (No response.)

16 JUDGE GROSS: No questions. I think we have the issue. Thank
17 you.

18 MR. McKIERNAN: Thank you.

19 JUDGE GROSS: Have a good day.

20 MR. McKIERNAN: You, too.

21 (Whereupon, at 9:19 a.m., the hearing was concluded.)